

Supplement to AOR 2008-05



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Subject: AO 2008-05 Holland & Knight - follow-up information

Per our phone conversation, below is some additional information regarding Holland & Knight LLP's Advisory Opinion Request. Specifically, you have asked me to answer the following two questions:

Question 1) Can Holland & Knight LLP develop a partnership contribution attribution system per 11 C F R §110 1(e)(2)? and

Question 2) How does Holland & Knight LLP pay taxes in Florida and Massachusetts?

Response 1) Holland & Knight could attribute political contributions to each partner by agreement of the partners by reducing compensation in proportion to the contributions, but not necessarily by reducing profits as 11 C F R § 110 1(e)(2) appears to require. Compensation at Holland & Knight is determined by the Managing Partner and is not directly tied to profits.

Response 2) Florida and Massachusetts do not follow the IRS business entity classification ("Check the Box") rules. Accordingly, any tax obligations in these states must be met by individual partners and not Holland & Knight LLP. As stated previously, all other states where Holland & Knight LLP operates (CA, GA, IL, MD, NY, OR, VA, and DC) follow the IRS "Check the Box" rules and tax Holland & Knight LLP as a corporation. Please note Massachusetts may also soon recognize the IRS "Check the Box" rule (see *Commonwealth of Massachusetts Study Commission on Corporate Taxation* - Final Report, December 28, 2007).

Florida Florida does not have a personal income tax, so no Holland & Knight LLP partners pay state income tax in Florida.

Massachusetts All Holland & Knight LLP partners pay state income tax in Massachusetts based upon their deemed "partnership" income - as if Holland & Knight LLP had not elected to classify itself as an association taxable as a corporation with the IRS. In general, an equity partner's deemed partnership income will be higher than their W-2 income and will include non-deductible Holland & Knight LLP expenses. A nonequity partner's deemed partnership income is equal to their W-2 income. Partners who reside in Massachusetts pay taxes based on their deemed partnership income. Nonresident partners pay taxes in Massachusetts based on a percentage of their deemed partnership income that is determined by the following factors: Holland & Knight LLP property located in Massachusetts as compared to total tangible property, Holland & Knight LLP payroll in Massachusetts as compared to total payroll, and Holland & Knight LLP "sales" in Massachusetts as compared to total revenue.

Please let me know if you have any additional questions.

Thanks

Chris